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December 9, 2010

MEMO ENDORS

By Facsimile (212) 805-6712

Hon. Kevin N. Fox
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: Graves v. Deutsche Bank Securities Inc.
No. 1:07-cv-05471 (BSJ) (KNF)

Dear Judge Fox:

We represent Deutsche Bank Securities Inc. ("DBSI"), in the above referenced matter. Today we received plaintiff Daniel Graves's reply to DBSI's opposition to his request to file a motion to compel. Although Mr. Graves told the Court yesterday that he would serve his responses to DBSI's letters by this morning, he has only served this reply. At page 13 of today's reply, Mr. Graves says that he will file the "remainder" of his response some time tomorrow. We assume that this additional response will be Mr. Graves's opposition to DBSI's letter, which we filed on December 7, 2010.

While we are not sure from your Honor's rules whether reply submissions, such as the one Mr. Graves filed today, are permitted, Mr. Graves's decision to file a response tomorrow rather than this morning, as promised, effectively precludes DBSI from filing any reply so that it could be read before Monday's scheduled hearing. Accordingly, if reply submissions, such as the one Mr. Graves filed today, are permitted, we ask the Court to require Mr. Graves to file his opposition to our December 7th letter today, as promised, in order to give DBSI the opportunity to file a reply, if it deems one is necessary, by the end of the day Friday. DBSI commits that it will keep its reply, if it does choose to file one, brief. If replies are not permitted, we ask that Mr. Graves's filing today be stricken. We would appreciate any guidance from the Court.

12/9/10

The plaintiff shall submit to the Court and counsel to the defendant the "remainder" of his response to the defendant's letter to the Court, by 12:00 p.m. on December 10, 2010. The defendant's reply, if any, shall be submitted to the Court and counsel to the plaintiff by 12:00 p.m. on December 13, 2010. A telephonic conference, initiated by counsel to the plaintiff, will be held on December 14, 2010, at 5:30 p.m.

Respectfully submitted,

Joanne Seltzer
Joanne Seltzer

SO ORDERED:
Kevin Nathaniel Fox, U.S.M.J.